

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

METROPOLITAN PROPERTY AND)	
CASUALTY INSURANCE COMPANY,)	
)	
Plaintiff,)	CIVIL ACTION
v.)	NO. 06-12059-NMG
)	
BOSTON REGIONAL PHYSICAL)	
THERAPY, INC., et al.,)	
)	
Defendants.)	

ORDER ON PENDING MOTIONS

On May 30, 2007, this court held a hearing to consider argument on the following pending motions: (1) “Motion to Dismiss Complaint and/or Motion to Strike Complaint in *Toto*” (Docket No. 42) filed by all of the named defendants; (2) “Plaintiff, Metropolitan Property and Casualty Insurance Company’s Motion to Dismiss Defendant, Boston Regional Physical Therapy’s Counterclaim” (Docket No. 96); (3) plaintiff’s “Request for Entry of Default Against the Defendant, Olga O’Connor a/k/a Olga Rich, Pursuant to Fed. R. Civ. P. 55(a)” (Docket No. 116); (4) “Defendant Sapna Aggarwal’s Motion for Release of All Attachments Against Her” (Docket No. 120); (5) “Plaintiff, Metropolitan Property and Casualty Insurance Company’s Emergency Motion for Sanctions Against the Defendant, Sapna Aggarwall and Attorney John Himmelstein Pursuant to Fed. R. Civ. P. 11” (Docket No. 124); (6) “Motion of Boston Regional Physical Therapy, Inc. to Extend Service of Process of Third Party Complaints and to

Appoint Special Process Server” (Docket No. 131); and (7) defendant Aggarwal’s “Motion to Continue May 30, 2007 Motion to Earliest Possible Date” (Docket No. 132). After consideration of the parties’ submissions and their oral arguments, it is hereby ORDERED as follows:

1. The defendants’ motion to dismiss or to strike the Complaint (Docket No. 42) is DENIED AS MOOT.

2. The plaintiff’s motion to dismiss the counterclaims asserted by defendant Boston Regional Physical Therapy (Docket No. 96) is DENIED WITHOUT PREJUDICE. The motion may be renewed at an appropriate time following the parties’ filing of new pleadings in compliance with the schedule set forth in paragraph 8 below.

3. The plaintiff’s request for an entry of default against Ms. O’Connor (Docket No. 116) is DENIED.

4. As agreed, Dr. Aggarwal’s motion for release of attachments (Docket No. 120) is hereby WITHDRAWN. The motion, including all attachments thereto, shall be expunged from the record or, alternatively, sealed.

5. The plaintiff’s emergency motion for sanctions (Docket No. 124) is DENIED WITHOUT PREJUDICE to renewal following any filing by Dr. Aggarwal of a new motion for release of attachments in accordance with the schedule set forth in paragraph 8 below.

6. Defendant Boston Regional Physical Therapy’s motion to extend the time to complete service of process and to appoint a special process server (Docket No. 131) is

ALLOWED IN PART and DENIED IN PART. The motion is DENIED AS MOOT with respect to the request for an extension of time, but is ALLOWED with respect to the appointment of a special process server.

7. Dr. Aggarwal's motion to continue the hearing date (Docket No. 132) is DENIED AS MOOT.

8. The parties shall comply with the following schedule:

- a. The plaintiff shall serve the defendants with a copy of its proposed motion for leave to amend the complaint and proposed third amended complaint by **June 1, 2007**.
- b. Prior to **June 8, 2007**, counsel for the parties shall confer, pursuant to Local Rule 7.1, regarding the plaintiff's motion for leave to amend the complaint.
- c. The plaintiff shall file any motion for leave to amend the complaint by **June 8, 2007** and shall indicate, based on the conference described in paragraph (b) above, whether or not the motion is unopposed. If the motion is opposed, the defendants shall file any opposition by the date required under the applicable rules. If the motion is unopposed, the defendants shall file their responsive pleadings and/or motions within 20 days from the date of the court's allowance of the motion for leave to amend.
- d. Dr. Aggawal shall file any new motion for the release of attachments by **June 8, 2007**.
- e. The plaintiff shall respond to any motion for the release of attachments and shall file any related motion for sanctions by **June 22, 2007**.
- f. Any response to a motion for sanctions shall be filed by **July 9, 2007**.

- g. A hearing shall take place on **July 11, 2007 at 10:00 a.m.** in Courtroom #15 on the 5th floor. At that time, the parties shall be prepared to present evidence pertaining to any motion for the release of attachments and to present oral argument regarding any other pending motions that have been addressed in this order.

/ s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge

DATED: May 31, 2007